

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

BRYAN MESSENGER,	)	
	)	
Plaintiff,	)	
	)	Case No.:
v.	)	
	)	
NATIONAL BOARD OF MEDICAL	)	
EXAMINERS,	)	
	)	
Defendant.	)	
	)	

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DECLARATION OF PLAINTIFF BRYAN MESSENGER

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I, Bryan Messenger, declare as follows:

1. The facts in this declaration are based on my personal knowledge. If called to testify, I could testify competently to the facts herein.
2. I am 35 years old.
3. I reside in Branchburg, New Jersey.
4. Since childhood, I have planned to become a pediatrician.
5. I have completed all coursework at St. George's University Medical School in Grenada, West Indies and received my M.D. degree in April 2017.
6. I have dyslexia and have always had difficulty reading. I did not learn to read until second grade.

7. When a grade school teacher noticed my problems with reading, I was tested and found to have a learning disability. I had an Individual Education Program (IEP) from second through tenth grade for the purpose of improving my reading fluency and speed.

8. From elementary school through medical school, I regularly took two to three times longer than my classmates to read assignments and write papers.

9. Dyslexia affects my life every day. For example, I have difficulty following maps and driving directions. I also have difficulty using grocery lists and frequently return home with incorrect items. I skip steps in recipes and sometimes include wrong ingredients or leave something out. My two oldest children are in first and third grades. They already read better than I do. It takes me four times as long as my wife to read an email or letter. My wife often helps me read and write emails, especially when I need to respond quickly.

10. My ability to read and understand information is extremely slow. On exams, I take longer to process questions. This happens even though I have studied and know the information. Because reading is so hard for me, I experience fatigue during tests.

11. In December 2011, I was diagnosed with a reading disorder by Dr. Edward A. Martinelli, Jr., Ph.D. Dr. Martinelli concluded that I need additional time on tests.

12. I began medical school in January 2012. Throughout medical school, I received extra time to complete examinations. This allowed me to demonstrate my knowledge of medicine and successfully complete medical school. I graduated from medical school in April 2017.

13. On September 15, 2015, I took the USMLE Step 2 CK for the first time and failed the exam. I did not receive accommodations even though I obviously needed them. Therefore, I requested testing accommodations before taking the exam again. NBME requires

disability documentation that is no more than three years old. So, I underwent additional evaluation with an expert in reading disorders and dyslexia.

14. In November 2015, I was tested by Lisa P. Kestler, Ph.D. of The Dyslexia Center of Princeton in Princeton New Jersey. Dr. Kestler confirmed my diagnosis of dyslexia and concluded that I need double time on tests.

15. On November 16, 2015, I submitted an application for testing accommodations to the NBME. I requested extra time on USMLE Step 2 CK. Along with the request form, I submitted the following documents: a. 2011 report from Dr. Martinelli diagnosing me with a reading disability and recommending extra testing time, b. November 2015 report from Dr. Kestler of The Dyslexia Center diagnosing me with dyslexia and recommending double testing time, c. February 2012 letter from St. George's University documenting the testing accommodation of extra exam time for medical school exams, and d. my personal statement (required by NBME) regarding my need for testing accommodations and my history of difficulty with reading.

16. I received a letter from NBME dated March 3, 2016, denying my request for accommodations.

17. On May 31, 2016, I took the USMLE Step 2 CK again. I did not have accommodations. I felt worried and distracted during the exam because I knew I did not have the accommodations I needed to be successful. I failed the exam again. The test measured my disability, not my abilities.

18. In November 2016, I appealed NBME's March 2016 denial of my request for testing accommodations and again asked for testing accommodations.

19. I received another letter from NBME dated December 9, 2016, again denying my request for additional time on the test.

20. I have not taken the USMLE Step 2 since May 2016 given NBME's refusal to accommodate my disability.

21. I have had to work twice as hard as those around me my whole life to compensate for my disability but I cannot prove myself without accommodations.

22. From August 2014 through May 2016, I participated in clinical rotations including four pediatric rotations. In May 2016, I completed these clinical rotations and, due to NBME's refusal to grant testing accommodations, I have been unable to make any career progress since that time.

23. I have been unable to find significant work opportunities given the professional limbo I am in. In addition, I face crushing student loan debt as a result of the medical school tuition I incurred pursuing my goal of becoming a pediatrician.

24. Passing USMLE Step 2 CK is a prerequisite for me to participate in a residency program. Because I twice failed the Step 2 CK in 2015 and 2016 without the necessary testing accommodations, I could not obtain a 2016 or 2017 residency placement.

25. Failure to pass the USMLE Step 2 CK by September 15, 2017 will prevent me from competitively applying for 2018 residency programs.

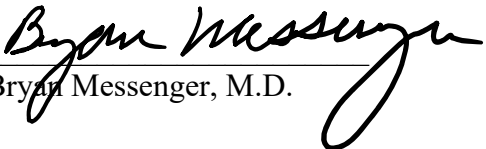
26. The more time that passes between my completion of my clinical rotations and my participation in residency, the greater the likelihood that I will never be accepted into a residency program because I will have missed the opportunity to timely put into practice the knowledge and skills I learned in medical school.

27. Completion of a residency program is required in order for me to become a

pediatrician.

28. Because the NBME will not give me double time for the USMLE Step 2 CK, my future and my ability to care for my family are in jeopardy. I have worked incredibly hard to earn my medical degree and I now live in fear that it was all for nothing.

Date: May 24, 2017

  
Bryan Messenger, M.D.